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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 11, 2000

BY HAND

Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204
Washington, D.C. 20554

Re: Promoting Increased Subscribership and Infrastructure Deployment in
the Commonwealth of Northern Mariana Islands; CC Docket No. 96-45

Dear Ms. Salas:

The Commonwealth of the Northern Mariana Islands ("CNMI" or "Commonwealth") applauds the recent actions taken by the Federal Communications Commission ("Commission") to remedy disproportionate subscribership and infrastructure deployment in American Indian and Alaska Native tribal communities ("tribal communities").¹ Given the comparably low subscribership and *per capita* income levels which prevail in the Commonwealth as well as a similar federal obligation to ensure a higher standard of living in the Commonwealth, the CNMI believes that such recent actions should also be extended to the Commonwealth. The following briefly summarizes the CNMI's position.

¹ See *In the Matters of* Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, CC Dkt. 96-45, FCC 00-208 (June 30, 2000) ("Order"); and *In the Matter of* Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes, FCC 00-207 (June 23, 2000) ("Policy Statement").

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List A B C D E

The Commission's Order and Policy Statement

In its Order, the Commission adopted a number of significant measures designed to promote increased subscribership levels in tribal communities, including, but not limited to:

- Up to \$25 per month in additional federal Lifeline Assistance ("Lifeline") support to eligible telecommunications carriers serving qualifying low-income individuals living on tribal communities;
- Up to \$70 per consumer in additional federal Lifeline Connection Assistance ("Link-Up") to offset initial connection charges and line extension costs; and
- Broadening Lifeline and Link-Up support to include other federal programs (such as the National School Lunch Program's free lunch program, Head-Start, and Temporary Assistance for Needy Families, among others).²

In addition to the benefits extended to tribal communities in the Order, on June 23, 2000, the Commission released a Policy Statement regarding its relationship with tribal communities. In the Policy Statement, the Commission re-affirmed its commitment to certain goals and principles to assist the tribal communities, thereby extending additional benefits that go beyond those benefits set forth in the Order. The goals and principles in the Policy Statement include:

- Recognition of tribal self-governance;
- Prior consultation with respect to programs impacting Tribal governments;
- Developing a working relationship with Tribal governments and endeavoring to identify innovative mechanisms to facilitate Tribal consultation in agency regulatory processes that affect telecommunications service-related issues;
- Streamlining administrative procedures to reduce costly burdens;
- Assistance in complying with FCC statutes and regulations;
- Mechanisms to educate FCC staff about tribal governments, cultures and needs;
- Cooperative efforts with other federal departments and agencies to address communications problems, including low penetration rates;

² See Order at ¶ 12.

- Actively welcoming submissions from Tribal governments and other concerned parties as to other actions necessary to further the goals and principles; and
- Incorporating these goals and principles into an ongoing and long-term planning and management activity.³

Taken together, the Order and the Policy Statement constitute substantial supportive measures to not only improve subscribership levels, but also to guide federal policy making applicable to tribal communities. As a general matter, these same important measures should also be extended to the CNMI.

**The Commission's Subscribership and Infrastructure
Deployment Policies Should be Extended to the Commonwealth**

In the Order, the Commission essentially based its decision to extend additional Universal Service assistance to tribal communities on two factors: 1) low penetration rates and *per capita* income statistics related to tribal communities; and 2) the historic trust relationship between the federal government and the tribal communities.⁴ While the CNMI applauds the Commission for its recognition of these important factors, they also emphatically illustrate a pressing need for such assistance to ensure a standard of livability in the CNMI.

Low Penetration Rate

In the Order, the Commission recognized that tribal communities had the lowest reported telephone penetration rate in the country. Consequently, the Commission took action to promote the deployment of telecommunications facilities in tribal communities and to provide support necessary to increase penetration in those areas.

³ See Policy Statement at 4-5.

⁴ The Commission's Order also acknowledges the "extreme geographic remoteness" of the tribal communities. Order at ¶¶ 3, 23 and 53. Of course, the CNMI is even more geographically isolated and distant than the tribal communities. See Exhibit at 2. (This Exhibit is excerpted from the CNMI's Comments filed in this matter on November 22, 1999. See Comments of the Commonwealth of the Northern Mariana Islands; Common Carrier Bureau Announces Extension of Comment and Reply Comment Dates for Unserved, Underserved, Tribal and Insular Areas Rulemaking Proceeding, CC Dkt. No. 96-45, DA 99-2607, *Public Notice* (Nov. 22, 1999) ("Commonwealth Comments")).

While the tribal communities' 1990 penetration rate of 47% is extremely low,⁵ the CNMI's penetration rate is similarly well below the national average. According to 1995 statistics, the overall penetration rate in the CNMI was 61%, well short of the U.S. average of 94%.⁶ Further, while the penetration rate on Saipan (the most populous island) was 62%, the level on the other two populated islands, Rota and Tinian, was only 53.3% and 52.1%, respectively.⁷

Furthermore, as the penetration rate in a given area is generally linked to household income levels, data pertaining to income levels is pertinent. The Order itself indicated that penetration rates correlate directly with income levels.⁸ According to the Order, the Bureau of Census published data showing that the *per capita* income of Native Americans living in tribal communities was \$4,478, as compared with \$14,420 in the U.S. as a whole.⁹ As for the CNMI, the *per capita* income in 1995 was \$6,897.¹⁰ Thus, the income level in the CNMI is comparable to that of the tribal communities.¹¹

Clearly, the CNMI's penetration rate and *per capita* income level are more in line with those of the tribal communities than of other U.S. mainland states or territories.¹²

Historic Trust Relationship

The second factor upon which the Commission predicated extending additional support to tribal communities was the historic federal trust relationship between the federal government and

⁵ See, e.g., Order at ¶ 26 (using 1990 data published by the Bureau of Census).

⁶ See Exhibit at 5.

⁷ See *id.*

⁸ See Order at ¶ 27.

⁹ See *id.*

¹⁰ See Exhibit at 3.

¹¹ It should be noted that both the penetration rate and *per capita* income statistics for tribal communities cited in the Order are somewhat dated, and have likely increased since that time. By contrast, data cited herein for the CNMI is not as dated.

¹² The penetration rate in the CNMI is substantially below that of other U.S. insular areas (*i.e.*, other U.S. territories or commonwealths).

tribal communities.¹³ Specifically, the Commission stated that enhancing tribal communities' access to telecommunications services is consistent with U.S. obligations under the historic federal trust relationship between the federal government and federally-recognized Indian tribes to encourage tribal sovereignty and self-governance, and to "ensure a standard of livability" for members of tribal communities.¹⁴ In the Commission's view, providing assistance to tribal communities to gain access to telecommunications services will, in turn, increase the communities' access to education, commerce, government, and public services.¹⁵

The CNMI maintains a unique relationship with the federal government as well, thereby creating an equally valid obligation to the CNMI. In 1947, the CNMI became a part of the United Nation's Trust Territory of the Pacific Islands, which was administered by the U.S. until 1976.¹⁶ In 1976, the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States" ("Covenant") was established, whereby the CNMI became a self-governing commonwealth in political union with and under the sovereignty of the U.S.¹⁷

The expanded Universal Service assistance adopted in the Commission's Order and policy objectives similar to those set forth in the Policy Statement are fully consistent with U.S. obligations to the CNMI. More specifically, Section 701 of the Covenant provides that "the Government of the United States will assist the Government of the Northern Mariana Islands in its efforts *to achieve a progressively higher standard of living for its people* as part of the American economic community and *to develop the economic resources needed to meet the financial responsibilities of local self-government*".¹⁸ Thus, an obligation exists under the Covenant to encourage self-governance and ensure a higher standard of living in the CNMI, principles virtually identical to those relied upon by the FCC to justify enhanced support to tribal communities.

As demonstrated above, with a penetration rate of only 61%, a *per capita* income level of \$6,897 and a strikingly similar federal obligation to promote a higher standard of living, the

¹³ See Order at ¶¶ 5, 23.

¹⁴ See *id.*

¹⁵ See *id.*

¹⁶ See Exhibit at 1.

¹⁷ See *id.*

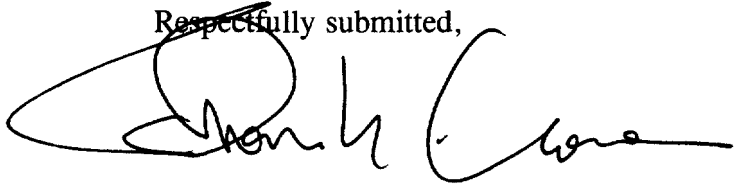
¹⁸ See *id.* (emphasis added).

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CNMI is situated similarly to the tribal communities. For these reasons, the enhanced Universal Service support extended to the tribal communities in the Order and the goals and objectives set forth in the Policy Statement should also be applied to the CNMI.

Should you require any additional information, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Thomas K. Crowe', written over the closing text.

Thomas K. Crowe
Tania J. Cho,
Counsel for the Commonwealth of the
Northern Mariana Islands

Exhibit

cc: All Commissioners
Dorothy Attwood
Katherine Schroder
Jack Zinman
Kent R. Nilsson
Danny Aranza
Nikolao Pula

EXHIBIT

EXHIBIT

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

I. Background

A. Political Relationship with the United States

In 1947, the Commonwealth became part of the United Nations' Trust Territory of the Pacific Islands ("TTPI"), which was administered by the United States until 1976¹ when the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States" was approved by both a United Nations supervised plebiscite of Commonwealth residents and subsequently by Congress.² The Commonwealth is now a self-governing commonwealth in political union and under the sovereignty of the United States. Pursuant to Presidential Proclamation No. 5564 (implemented on November 3, 1986), all persons born in the Commonwealth both before and after the Covenant took affect are citizens of the United States.³ The TTPI was officially terminated on December 22, 1990 by the Security Council of the United Nations.

B. Government

The Commonwealth adopted its own constitution in 1977.⁴ The constitution provides for a governmental system analogous to that of a typical American state: the executive branch is represented by the Governor and Lieutenant Governor, the legislative branch by a House of Representatives (18 members) and a Senate (9 members), and the judiciary by the Superior Court and the Supreme Court.⁵ Both the current Governor,

¹ U.S. Department of the Interior, Office of Insular Affairs website www.doi.gov/oia/facts.html (visited November 8, 1999) ("OIA website").

² See 48 U.S.C. § 1801 note (Supp. 1999), approved by Congress in Public Law 94-241 (March 24, 1976), 90 Stat. 263 ("Covenant"). Under the Covenant, the United States has a special obligation to assist the Commonwealth in achieving economic development. Section 701 of the Covenant states that "[T]he Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop economic resources needed to meet the financial responsibilities of local self government."

³ See OIA website.

⁴ *Id.*

⁵ *Id.*

Pedro P. Tenorio, and the Lieutenant Governor, Jesus R. Sablan, were elected in 1997.⁶ There is also a federal judicial presence in the Commonwealth, the U.S. District Court for the District of the Northern Mariana Islands.⁷

C: Location

The Commonwealth is a three-hundred mile archipelago consisting of 14 islands (Saipan, Rota, Tinian, Aguiguan, Farallon de Medinilla, Anatahan, Sariguan, Guguan, Alamagan, Pagan, Agrihan, Asuncion, Maug Islands, and Farallon de Pajaro) with a total land area of 183.5 square miles.⁸ Virtually all of the Commonwealth's population resides on the islands of Saipan, Tinian and Rota. The Commonwealth is 3,300 miles from Honolulu; 5,625 miles from San Francisco; 1,272 miles from Tokyo, Japan; and 3,090 miles from Sydney, Australia.⁹

D. Culture

The Commonwealth is a culturally diverse and vibrant area. While the people are chiefly of Chamorro and Carolinian descent,¹⁰ today the population reflects numerous other ethnic groups, including many people from the Philippines and other Asian and Micronesian countries.¹¹ While the official language is English, the native Chamorro and Carolinian languages are spoken as well.¹² Spanish and Japanese cultural influences are also evident.¹³ The dominant religion in the Commonwealth is Catholicism.¹⁴

⁶ See OIA website.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ U.S. DEPT. OF THE INTERIOR, OFFICE OF INSULAR AFFAIRS, A REPORT ON THE STATE OF THE ISLANDS, at 24 (1999).

¹¹ See Commonwealth of the Northern Mariana Islands website, www.mariana-islands.gov.mp/people.htm#lang (visited November 11, 1999) ("Commonwealth website").

¹² *See id.*

¹³ See OIA website.

¹⁴ See Commonwealth website.

E. Demographic Characteristics

The Census Bureau estimates that the mid-1998 population of the Commonwealth was approximately 66,611 people.¹⁵ Using data collected in 1995, 86.7% of the population (52,698 people) lived on the main island of Saipan, 8.2% (3,509 people) lived on the island of Rota, and 5.1% (2,631 people) lived on the island of Tinian.¹⁶ Also using 1995 data, the median household income in the Commonwealth is \$19,094 per year,¹⁷ while *per capita* income is \$6,897 per year.¹⁸

II. Telecommunications Market and Environment

A. Domestic U.S. Integration

In recent years the Commonwealth has become more closely integrated into the U.S. domestic telecommunications infrastructure. The Commonwealth became a part of the North American Numbering Plan on July 1, 1997 and was assigned the "670" domestic area code.¹⁹ Since September 1, 1997, the Commonwealth has also been encompassed under the Commission's rate integration policy.²⁰

¹⁵ See A REPORT ON THE STATE OF THE ISLANDS, at 24 (1999).

¹⁶ DEPT. OF COMMERCE-CENTRAL STATISTICS DIVISION, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, 1996 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS STATISTICAL YEARBOOK ("COMMONWEALTH STATISTICAL YEARBOOK"), at 4 (November 1997).

¹⁷ *Id.* at 106.

¹⁸ *Id.* at 107.

¹⁹ See *In re* Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd. 8776, 8996 at n. 1058 (1997)(citing to North American Numbering Plan Planning Letter, NANP-Introduction of New 670 (CNMI) Numbering Plan Area (NPA), PL-NANP-010 (Sept. 5, 1996)).

²⁰ *In re* Policy and Rules concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, *Report and Order*, 11 FCC Rcd. 9564 (1996), *recon. Denied Memorandum Opinion and Order*, 12 FCC Rcd. 11548 (1997), *modified by First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 11812 (1997), *partially stayed by Order*, 12 FCC Rcd. 15739 (appeal pending).

B. Telecommunications Companies

Currently, there are only two companies offering facilities-based long distance telecommunications services in the Commonwealth - IT&E Overseas, Inc. and GTE Pacifica. Micronesian Telecommunications Corporation ("MTC") is the sole provider of local telecommunications services. GTE Pacifica and MTC (collectively, "GTE Affiliates") are both affiliates of GTE Corporation. GTE Corporation is the largest independent local exchange carrier ("LEC") and one of the largest LECs overall in the United States.²¹

C. Competition

1. Local Services

There is no competition in the local telecommunications market. MTC is the sole provider of local exchange service and exchange access service.

2. Off-Island Long Distance Services

Competition in the provision of off-island services is very limited as GTE Pacifica is the dominant service provider. The GTE Affiliates essentially control access off the islands by means of their ownership of the sole submarine fiber optic cable connecting the Commonwealth islands of Saipan, Tinian and Rota with Guam (and, in turn, with various submarine cables connecting Guam with the rest of the world).²² The GTE Affiliates also control essential multi-purpose earth station facilities necessary to reach the Pacific region's INTELSAT satellites,²³ as well as analog microwave facilities which link the Commonwealth and Guam.

²¹ Preliminary Statistics of Communications Common Carriers at 13, Table 2.1 (1997 Edition).

²² *In re* Micronesian Telecommunications Corporation Application for a License to Land and Operate a High Capacity Digital Submarine Cable System Extending Between the Commonwealth of the Northern Mariana Islands and Guam, *Cable Landing License*, 8 FCC Rcd. 748 (1993); and *In re* Micronesian Telecommunications Corporation and GTE Pacifica Incorporated, Application, ITC 97-778-AL (Dec. 11, 1997).

²³ *In re* Micronesian Telecommunications Corporation Application for Section 214 Authority to Acquire from Comsat Earth Stations, Inc., *Memorandum Opinion, Order and Authorization*, 3 FCC Rcd. 1617 (1988).

D. Penetration Rate

According to U.S. Department of the Interior statistics, the overall telephone penetration rate in the Commonwealth in 1995 was 61%, far below the U.S. average.²⁴ While the penetration rate on Saipan (the most populous island) was 62% in 1995, penetration on the other two populated islands, Rota and Tinian, was only 53.3% and 52.1%, respectively, in 1995.²⁵

III. Health Care

A. Overview

The Department of Public Health, operated by the Commonwealth government, is the sole provider of comprehensive health care services in the Commonwealth.²⁶ The primary health care facility in the Commonwealth is the Commonwealth Health Center, a 74-bed, two-level hospital located on Saipan that provides medicine and treatment, dentistry, nursing and other ancillary services.²⁷ The Commonwealth Government also maintains two smaller facilities, one on Tinian and another on Rota.²⁸ Each of these smaller health care units provides emergency care, 2-3 beds, x-ray, pharmacy and dental services.²⁹ While several small, private medical and dental clinics exist on Saipan, there are no such facilities on any other Commonwealth island.³⁰

B. Problems in Health Infrastructure

As a geographically distant commonwealth with a low per capita income rate, the Commonwealth has traditionally had difficulties in dealing with increased health care costs, despite aid from federal agencies such as the U.S. Public Health Service and the

²⁴ See A REPORT ON THE STATE OF THE ISLANDS, at 117.

²⁵ See COMMONWEALTH STATISTICAL YEARBOOK, at 96.

²⁶ See OIA website.

²⁷ See Commonwealth Health Center website, www.medicine-saipan.com (visited November 11, 1999).

²⁸ See A REPORT ON THE STATE OF THE ISLANDS, at 31.

²⁹ *Id.*

³⁰ *Id.*

Department of the Interior.³¹ By law, the Commonwealth health care system must provide service for everyone, regardless of their ability to pay for such services.³² Off-island referrals to Hawaii and other mainland areas are often necessary due to the lack of specialists and equipment in the Commonwealth, making the provision of health care services expensive. The lack of access to specialists and adequately trained personnel in the Commonwealth, compounded by the fact that it is more expensive to offer specialized medical services on the islands than on the mainland U.S., have made the health care situation that much more desperate.³³ If the Commonwealth is to continue the provision of health care service at its present quality level it will need significant assistance from the U.S. government.³⁴

³¹ See A REPORT ON THE STATE OF THE ISLANDS, at 31

³² *Id.*

³³ *Id.*

³⁴ *Id.*